

IN THE UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF MISSOURI  
WESTERN DIVISION

UNITED STATES OF AMERICA	)	
	)	
Plaintiff,	)	
	)	
v.	)	Case No. 94-00194-01-W-HFS
	)	
DENNIS B. MOORE, SR.	)	
	)	
Defendant.	)	

**ORDER**

Defendant Moore is serving a life sentence imposed by Judge Bartlett for committing a murder in 1989 in furtherance of a continuing criminal enterprise, activities in connection with marijuana distribution. A five year consecutive sentence was imposed for providing firearms in connection with a restaurant robbery in 1992. Presentence Report paragraph 56.

After a trial and conviction, defendant filed an appeal, in which the Government prevailed. United States v. Moore, 149 F.3d 773 (8<sup>th</sup> Cir. 1998).

In August, 2008, Moore filed the pending motion for modification of sentence, on the basic theory that there was double-counting of the firearm violation which can be corrected under Amendment 599 to the Sentencing Guidelines, promulgated in 2000. He seeks general reconsideration of his sentence, once a correction is made, and also contends a marijuana plant computation was erroneous. None of these contentions are sound, for reasons stated in the Government's most recent filing. (Doc. 1064), submitted on April 1, 2009.

Summarily, the double-counting issue is patently unsound because the murder and the restaurant robbery were not related, and the basic offense level for the most serious crime was not

enhanced for a gun-related specific offense characteristic. Presentence Report, paragraph 66.

The marijuana issue has no relevance, and if it did it should have been raised on appeal or in a timely motion under Section 2255.

While the Ninth Circuit may allow general reconsideration of sentences once a modification is authorized, none is authorized here, and the Eighth Circuit does not follow Ninth Circuit practice in this connection.

The motion for modification of sentence (Doc. 1055) is therefore DENIED.

/s/ Howard F. Sachs  
HOWARD F. SACHS  
UNITED STATES DISTRICT JUDGE

April 24, 2009

Kansas City, Missouri